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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
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		10/791,147	March 3, 2004
		First Named Inventor	
		Louise Lamarre	
Art Unit		Examiner	
2851		Rodney Evan Fuller	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/95)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>55,992</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.</p>			
Signature		Typed or printed name	
		Alexandra Daoud	
		(514) 847-4333	
		Telephone number	
		June 12 2006	
		Date	

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Montreal, Canada

June 12, 2006

File No.: 17949-1US AD/bns

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: LAMARRE, Louise
Serial No.: 10/791,147
Filed: March 3, 2004
Title: FILMING USING REAR-PROJECTION SCREEN AND IMAGE PROJECTOR
Art Unit: 2851
Examiner: Rodney E. Fuller Tel. No. (571) 272-2118
Agent of Record: Alexandra Daoud Tel. No. (514) 847-4333

BY FACSIMILE: (571) 273-8300

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U.S.A.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Please find enclosed herewith form PTO/SB/33 for the pre-appeal brief request for review. Please consider below the reasons for which the review is being requested.

A Notice of Appeal is being filed concurrently.

REASONS:

Claims 8-19 and 21 have been rejected by the Examiner for being anticipated by U.S. patent 2,968,211 to Douglas.

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The Applicant hereby submits that the 35 USC §102 rejection is defective and requests that it be withdrawn.

The single prior art reference does not disclose every limitation in claim 8. In accordance with MPEP §2131:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Contrary to the examiner's position that all elements are disclosed in the Douglas reference, "applying a varying degree of focus to a plurality of objects in said image as a function of a degree of focus of each of said objects for an intended distance between each of said objects and said subject" is not.

The Examiner states in his action that Douglas discloses projecting the image to represent it's true aspect and suitable to be employed as a scenic background (col. 1, lines 15-20), and changing the distance between the projector and the screen (col. 5, line 74 – col. 6 line 2). The Examiner then states that these passages teach and would suggest to one skilled in the art that the focus of the image on the rear projection screen is variable, which would allow for controlling a depth of field of the filmed scene.

The Applicant respectfully disagrees that the reference teaches this feature. In addition, this very statement is evidence that the limitation from claim 8 is neither expressly or inherently described in the single piece of prior art that is Douglas. Douglas does not address the problem of controlling the depth of field when filming a movie scene. Therefore, a solution for this problem cannot be inherent in the description. For something to be inherent it must exist as an essential constituent or characteristic. This is clearly not the case.

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In addition, given that the original filing date of the Douglas reference is 1951, the Applicant hereby submits that the Examiner is exhibiting tremendous hindsight in determining what was inherent to the description at the time of filing. In his advisory action, the Examiner cites *In re McLaughlin*, 443 F. 2d 1392; 170 USPQ 209 (CCPA 1971) to show that any judgement that takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, is proper. The Applicant agrees with this statement, but hereby submits that the Examiner is not limiting the knowledge used to assess the reference to that known to a person skilled in the art in 1951. The technology was not advanced enough in 1951 for a person skilled in the art of the present invention to extrapolate from the Douglas reference the step of "applying a varying degree of focus to a plurality of objects in said image as a function of a degree of focus of each of said objects for an intended distance between each of said objects and said subject".

Douglas discloses a method for creating a realistic background using a background film projected on a screen, during shooting a movie with a camera, the method involving correlating the movement of a projector, the screen and the camera. The method is particularly concerned with the movement of the projector and the screen repeating the movement of the camera used to record the background film. The method of Douglas is not concerned with and does not address the problem of controlling the depth of field when filming a movie scene. Furthermore, Douglas does not disclose varying the focus of a background image to create a depth of field. Therefore, Douglas does not disclose applying a varying degree of focus to a plurality of objects in a background image as a function of a degree of focus of each of the objects for an intended distance between each of the objects and the subject.

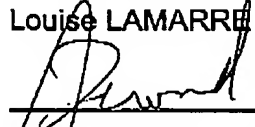
In view of the above, the Applicant respectfully submits that the 35 USC §102 rejection is improper for want of support and requests that it be withdrawn.

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Respectfully submitted,

Louise LAMARRE



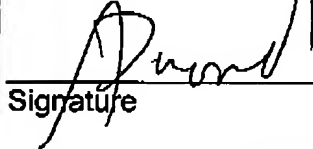
Alexandra Daoud, Reg. N° 55,992
CUSTOMER NUMBER 020988

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I hereby certify that this paper is being facsimile transmitted to the
Patent and Trademark Office on the date shown below.

ALEXANDRA DAQUD, Reg. no. 55,992

Name of person signing certification


Signature

June 12, 2006
Date